UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/071,802	02/06/2002	Alvin Wong	426882004000	2854

7590 05/24/2004	EXAMINER
KATHERINE D. LEE	STIMPAK, JOHNNA
MORRISON & FOERSTER LLP	

ART UNIT	PAPER NUMBER
3623	

425 MARKET STREET
SAN FRANCISCO, CA 94105

DATE MAILED: 05/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	10/071,802	WONG, ALVIN
	Examiner	Art Unit
	Johnna R Stimpak	3623

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 March 2004*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
    closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-31* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-31* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
    application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date _____.
5)☐ Notice of Informal Patent Application (PTO-152)
6)☐ Other: _____.

DETAILED ACTION

1.   The following is a non-final office action upon examination of application number

10/071,802. Claims 1-31 are pending and have been examined on the merits discussed below.

Response to Amendment

2.   Objections to the oath/declaration are withdrawn.

3.   In response to applicant's argument that the references fail to show certain features of

applicant's invention, it is noted that the features upon which applicant relies (i.e., start point/end

point pairs wherein customers provide information relating to order fulfillment at various points

or stages along the order fulfillment process) are not recited in the rejected claim(s). Although

the claims are interpreted in light of the specification, limitations from the specification are not

read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

As claimed, the start and end point pairs are representative of an event triggering a start of time

period, etc. In light of this, the Martin et al reference measures delivery performance wherein it

is determined if an item is delivered when requested. The customer enters an order and requests

a delivery date; this requested delivery date is the start point. The date the order actually delivers

is the end point. The performance calculation involves on-time product delivery statistics for

each customer (different customers would have different start and end point pairs). The

determination of whether the product delivery is on time is based upon the requested delivery

date and the actual delivery date.

4.   As for the argument that the reference does not teach reporting the performance for a

supplier supplying items to more than one customer, it is well known that with the use of

spreadsheets, etc., one could display multiple data for multiple customers showing performance

for each order placed. This is reflected in the rejections below.

5.   In reference to claims 9-23, Applicant argues and requests prior art references to teach

storing information such as supplier, buyer, and start point and end points, in a database to

summarize purchase order information. Examiner would like to point out that these limitations

are non-functional descriptive language and are given no patentable weight. As claimed, the

supplier, buyer and start and end point data inputs do not affect the on-time delivery calculation.

They are data inputs that are used to organize a report for convenient relay of information. There

is no teaching of how the specific data inputs are manipulated to reach the on-time delivery

calculation. It is old and well known to format a spreadsheet document with information such as

the supplier, the buyer and the start/end point pairs to let one more accurately evaluate the on-

time performance of shipments between customers and suppliers.

Claim Rejections - 35 USC § 102

6.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7.   **Claims 1-8 and 24-31** are rejected under 35 U.S.C. 102(b) as being anticipated by Martin

et al, US 5,960,408.

8.   As per **claim 1**, Martin et al teaches storing purchase order data in a data base (column 2,

lines 35-37); and generating on time performance reports from the purchase order data, the on

time performance reports including a number of orders delivered on time by a first supplier with

respect to each of a plurality of start point / end point pairs, wherein the start point is

representative of a plurality of events triggering a start of a time period used to measure delivery

time, the end point is representative of a plurality of events triggering an end of a time period

used to measure delivery time, and each of the plurality of start point/end point pairs can be

different from each other for at least one buyer (column 4, lines 51-67 – Martin et al reference

measures delivery performance wherein it is determined if an item is delivered when requested.

The customer enters an order and requests a delivery date; this requested delivery date is the start

point. The date the order actually delivers is the end point. The performance calculation

involves on-time product delivery statistics for each customer (different customers would have

different start and end point pairs). The determination of whether the product delivery is on time

is based upon the requested delivery date and the actual delivery date).

As per **claim 2**, Martin et al teaches the on time performance reports also include a

number of line items delivered on time by the first supplier with respect to each of the plurality

of start point / end point pairs (column 5, lines 25-32 – chart shows the inclusion of line items for

measuring the on time performance).

As per **claim 3**, Martin et al teaches the number of orders delivered on time is a

percentage (column 5, lines 6-32 – shows the report format including percentage on-time).

As per **claim 4**, Martin et al teaches the number of orders delivered on time is a

percentage and the number of line items delivered is a percentage (column 5, lines 6-32 – shows

the report format includes percentage on-time for the number of units shipped and also in terms

of line items).

As per **claim 5**, it is the system with executable code for performing the method of claim 1 therefore the same rejection as applied to claim 1 also applies to claim 5.

As per **claim 6**, it is the system with executable code for performing the method of claim 2 therefore the same rejection as applied to claim 2 also applies to claim 6.

As per **claim 7**, it is the system with executable code for performing the method of claim 3 therefore the same rejection as applied to claim 3 also applies to claim 7.

As per **claim 8**, it is the system with executable code for performing the method of claim 4 therefore the same rejection as applied to claim 4 also applies to claim 8.

As per **claim 24**, it is the system with means for performing the method of claim 1 therefore the same rejection as applied to claim 1 also applies to claim 24.

As per **claim 25**, it is the system with means for performing the method of claim 2 therefore the same rejection as applied to claim 2 also applies to claim 25.

As per **claim 26**, it is the system with means for performing the method of claim 3 therefore the same rejection as applied to claim 3 also applies to claim 26.

As per **claim 27**, it is the system with means for performing the method of claim 4 therefore the same rejection as applied to claim 4 also applies to claim 27.

As per **claim 28**, it is the computer program in an electronically readable medium with executable code for performing the method of claim 1 therefore the same rejection as applied to claim 1 also applies to claim 28.

As per **claim 29**, it is the computer program in an electronically readable medium with executable code for performing the method of claim 2 therefore the same rejection as applied to claim 2 also applies to claim 29.

As per **claim 30**, it is the computer program in an electronically readable medium with executable code for performing the method of claim 3 therefore the same rejection as applied to claim 3 also applies to claim 30.

As per **claim 31**, it is the computer program in an electronically readable medium with executable code for performing the method of claim 4 therefore the same rejection as applied to claim 4 also applies to claim 31.

Claim Rejections - 35 USC § 103

9.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

10.   **Claims 9-23** are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin et al.

As per **claim 9**, Martin et al teaches summarizing the number of orders shipped and the number of orders on time and calculating the number of on time deliveries based on customer orders and delivery dates (column 5, lines 6-34) but does not explicitly teach, for a first and second subset of the plurality of records, storing in a database summarized purchase order data from a plurality of buyers, the summarized purchase order data comprising a plurality of records, each record in the plurality of records including a supplier, a buyer, a one of a plurality of start point / end point pairs for measuring on time delivery, a number of orders placed, and a number of orders delivered on time wherein each of the start point/end point pair can be different from each other for each of the plurality of buyers, the start point is representative of a plurality of events triggering a start of a time period used to measure delivery time, and the end point is

representative of a plurality of events triggering an end of a time period used to measure delivery time. Martin et al generates reports for each customer to convey the number of orders placed and the number of orders delivered on-time in terms of shipments or line items. It would have been obvious to one of ordinary skill in the art to generate a database with the summarized purchase order data for each customer containing the number of orders placed and number delivered on time, as well as, the supplier, the buyer, and the start/end point pairs used to measure the on time delivery to enable the user to more accurately evaluate the on-time performance of shipments between customers and suppliers.

As per **claim 10**, Martin et al does not explicitly teach for a third subset of the plurality of records, each record in the third subset including the first of the plurality of start point / end point pairs, the first supplier, and a first of the plurality of buyers, summing together the numbers of orders placed included in each record of the third subset to obtain a third total number of orders, the third total number of orders being a number of orders placed by the first buyer with the first supplier for which the first start point / end point pair is used to measure on time delivery; for the third subset of the plurality of records, summing together the number of orders delivered on time to obtain a number of the third total number of orders that were delivered on time; and reporting to the plurality of buyers the third total number of orders and the number of the third total number of orders that were delivered on time. Martin et al teaches summing together the number of orders placed to measure on time delivery and obtaining a number of the orders that were delivered on time for each customer (column 5, lines 1-34). Although Martin et al does not explicitly teach generating the total number of orders that were delivered on time for a third subset of the records, it would have been obvious to generate a database showing, for each order

placed between a customer and supplier, all the information to generate the on time performance to allow the user to more accurately evaluate the on time performance of shipments between several combinations of suppliers and customers.

As per **claim 11**, Martin et al teaches calculating, for each customer, the number of orders that were delivered on time and coming up with a percentage on-time comprising dividing the number of the first total number of orders that were delivered on time by the first total number of orders and multiplying the result by 100 (column 5, lines 1-34 – total units shipped / on-time units = percentage on time).

As per **claim 12**, Martin et al teaches calculating, for each customer, the number of orders that were delivered on time and coming up with a percentage on-time comprising dividing the number of the first total number of orders that were delivered on time by the first total number of orders and multiplying the result by 100 (column 5, lines 1-34 – total units shipped / on-time units = percentage on time).

As per **claim 13**, Martin et al teaches the third subset of the plurality of records consists of a single record (column 5, lines 1-5 - the method can be used for each customer which would correlate to a single record per customer).

As per **claim 14**, Martin et al does not explicitly teach for a third subset of the plurality of records, each record in the third subset including a first of the plurality of start point / end point pairs and a second supplier, summing together the number of orders placed included in each record of the third subset to obtain a third total number of orders, the third total being a total number of orders placed with the second supplier for which the first start point / end point pair is used to measure on time delivery; for the third subset of the plurality of records, summing

together the number of orders delivered on time included in each record of the third subset to

obtain a number of the third total number of orders that were delivered on time; and reporting to

the plurality of buyers and the plurality of suppliers the first total number of orders, the number

of the first total number of orders that were delivered on time, the second total number of orders,

the number of the second total number of orders that were delivered on time, the third total

number of orders and the number of the third total number of orders that were delivered on time.

Martin et al teaches summing together the number of orders placed to measure on time delivery

and obtaining a number of the orders that were delivered on time for each customer (column 5,

lines 1-34). Although Martin et al does not explicitly teach generating the total number of orders

that were delivered on time for a first second or third subset of the records, it would have been

obvious to generate a database showing, for each order placed between a customer and supplier,

all the information to generate the on time performance to allow the user to more accurately

evaluate the on time performance of shipments between several combinations of suppliers and

customers.

As per **claim 15**, Martin et al teaches summing together the number of line items

included in each record of the first subset to obtain a first total number of line items ordered from

the first supplier for which the first start point / end point pair is used to measure on time

delivery; summing together the number of line items delivered on time to obtain a number of the

first total number of line items that were delivered on time; and reporting to the plurality of

buyers the total number of line items and the number of the total number of line items that were

delivered on time (column 5, lines 1-34 – the on time percentage is calculated for line items as

well as shipments).

As per **claim 16**, Martin et al teaches dividing the number of the total number of orders

that were delivered on time by the total number of orders and multiplying the result by 100

(column 5, lines 1-34 – total units shipped / on-time units = percentage on time – this is

calculated for each customer who places orders).

As per **claim 17**, Martin et al teaches dividing the number of the total number of orders

that were delivered on time and multiplying the result by 100; and dividing the number of the

first total number of line items that were delivered on time by the first total number of line items

and multiplying the result by 100 (column 5, lines 1-34 – total units shipped / on-time units =

percentage on time – this is calculated for both shipments and line items for each customer who

places orders).

As per **claim 18**, is the system with executable code for performing the method of claim

9 therefore the same rejection as applied to claim 9 also applies to claim 18.

As per **claim 19**, is the system with executable code for performing the method of claim

10 therefore the same rejection as applied to claim 10 also applies to claim 19.

As per **claim 20**, it is the system with executable code in an electronically readable

medium for performing the method of claim 11 therefore the same rejection as applied to claim

11 also applies to claim 20.

As per **claim 21**, it is the system with executable code in an electronically readable

medium for performing the method of claim 12 therefore the same rejection as applied to claim

12 also applies to claim 21.

As per **claim 22**, it is the system with executable code in an electronically readable

medium for performing the method of claim 14 therefore the same rejection as applied to claim

14 also applies to claim 22.

As per **claim 23**, it is the system with executable code in an electronically readable

medium for performing the method of claim 15 therefore the same rejection as applied to claim

15 also applies to claim 23.

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Johnna R Stimpak whose telephone number is 703-305-4566.

The examiner can normally be reached on M-F 8am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Tariq Hafiz can be reached on 703-305-9643. The fax phone number for the

organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Js
May 18, 2004

TARIQ R HAFIZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600